

RECEIVED
CENTRAL FAX CENTER

NOV 20 2006

Remarks

Applicants thank the Examiner for the courtesy and consideration shown applicants' attorney in the interview of November 17, 2006, and for the careful review and consideration of the application. Claims 1, 4, 5, 8-16, 18-20, and 24-49 are currently pending. Claims 8, 10, 27, and 30-42 have been subjected to a restriction requirement and are withdrawn from consideration.

As discussed during the interview, it is believed that the amendments requested in the Response to Office Action Under 37 C.F.R. § 1.113 filed October 4, 2006, should have been entered under 37 C.F.R. § 1.116(b) as presenting the claims in better form for consideration on appeal. Those previously presented amendments are set forth above. An additional amendment to claim 5 is included therein. The currently proposed amendment also places the claims in better form for consideration on appeal, and therefore, its entry is requested as well.

The majority of the previously requested amendments were changes to specify that the manufacturer coupons bear machine readable code, not simply indicia. As discussed with the Examiner, applicants do not consider the presence of ordinary text typically printed on coupons as distinguishing the pending claims from the prior art. Ordinary text, however, at least theoretically could be read by optical character recognition technology, and thus, the claims' use of "machine readable indicia" could have been construed as covering ordinary text. The previously requested amendments specified that the "machine readable indicia" are "machine readable code," thereby reducing potential issues of claim construction from an appeal of the Examiner's final rejection.

Amendments to claim 28 were proposed. Those amendments simply incorporated limitations from dependent claim 26 and do not raise any significant new issues.

response to office action 06-11-20

Best Available Copy

Finally, further amendments to claim 5 are requested. Those amendments specify that the shipping carton has a machine readable indicator which is "assigned to" the manufacturer coupon. The Examiner expressed concern that the previous language, "uniquely associated with," could be construed as simply requiring physical proximity to the manufacture coupon. He appeared to be relying on such an interpretation to support his rejection of claim 5 in part on U.S. Published Appl. 2005/0086910 A1 of P. Chambers *et al.* ("Chambers").

Chambers '910 discloses a multi-pack package for single serve food products. It is particularly adapted for "larger or jumbo-sized" packaged articles, such as snack chips and pretzels packaged in pouch containers, which encourage "bulk" purchases. *See, e.g.*, ¶¶ 4, 7, 44-46. The multi-pack package includes a bar code that identifies both "the product and the vendor that sells the product." *See* ¶ 45.

Chambers does not disclose single-serve food products and distribution to consumer food service outlets. Neither the packs themselves, nor the multi-pack package includes a manufacturer coupon which bears machine readable code. If, however, it was assumed for the sake of argument (and applicants do not agree with such assumptions):

- (1) first that workers in the art would have been motivated to combine U.S. Published Patent Appl. 2004/0010448 to J. Miller ("Miller") in view of French Pat. 2,422,562 of C. Planchard ("Planchard") and prior art admitted by applicants ("Admitted Prior Art") to produce a single-serve food product with a manufacturer coupon bearing machine readable code and pertaining to product other than the packaged product; and
- (2) then that workers in the art would have been motivated to place those manufacturer coupon bearing single-serve food products in the carrier disclosed in Chambers;

(3) then applicants would concede that the code on the carrier would be in physical proximity to the manufacturer coupon which is on the product.

Entry of the currently proposed amendments would avoid issues on appeal as to whether such physical proximity is covered by the claims.

Moreover, claim 5 is in condition for allowance with or without entry of the amendments, further simplifying the issues on appeal. It is set forth below, including all proposed amendments.

5. A method for disseminating *manufacturer coupons* to a target consumer groups, which method comprises:

(a) packaging a product in *a pouch containers having associated therewith a manufacturer coupon* pertaining to products or services other than said packaged product, wherein *said packaged product is a single-serve food product*, wherein *said manufacturer coupon* is redeemable by a consumer of said product and *includes machine readable code* associated therewith to facilitate automated processing of said coupon, and said manufacturer coupon is intended for a target consumer group;

(b) *packaging said packaged product in a shipping carton having a machine readable indicator assigned to said manufacturer coupon*;

(c) *reading said indicator and in response thereto shipping said carton to consumer food service outlets associated with said target consumer group*, whereby said packaged single-serve food product may be distributed to consumers thereby disseminating said manufacturer coupon.

(emphasis added).

There is no disclosure in Chambers that the carrier and its contents should be shipped to consumer food service outlets associated with a target consumer group in response to reading the bar code. The bar code in Chambers will be read at a grocery store checkout and the consumer will then take the carrier and its contents home for consumption. Additionally, Chambers may teach placing a bar code on the carrier, but the bar code identifies "the product and the vendor

RECEIVED
CENTRAL FAX CENTER

NOV 20 2006

that sells the product." There is no suggestion that the code or a portion of it should be assigned to a manufacturer coupon associated with the product.

Entry of the previously requested amendments to the withdrawn method claims also is requested. Those amendments are necessary to ensure that claim 1 remains generic and, therefore, that the withdrawn method claims are allowable in the event claim 1 is deemed allowable on appeal.

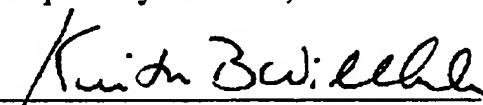
Conclusion

It is believed that the previously proposed amendments were proper under 37 C.F.R. § 1.116 and should have been entered. The currently proposed amendment to claim 5 is likewise proper and should be entered. All claims are believed to be allowable for reasons stated of record. In particular, claim 5 and claims dependent thereon are allowable for the additional reasons stated herein. Prompt and favorable reconsideration, therefore, is earnestly solicited.

The Examiner is invited to contact the undersigned attorney at (832) 656-3853 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

Nov. 20, 2006
Date


Keith B. Willhelm, Reg. No. 31,442
Attorney at Law
6266 Del Monte
Houston, Texas 77057
(713) 780-9246
(832) 656-3853
(832) 251-3853 (fax)
kbw@willhelm.com

Attorney for Applicants

response to office action 06-11-20

16

Best Available Copy